

The Link

Quarterly Activity Report
January -- March 2003



Tragedy at CTA Acoustics.... (Workers' Compensation Response)

The preparedness and initial response from a Kentucky Workers' Compensation group self-insurer was tested when CTA Acoustics, a Corbin, Kentucky manufacturing facility, sustained a massive explosion and flames in the early morning of February 20, 2003. Approximately 150 employees were on the job around 7:30 am when the explosion occurred. As a result, 46 workers sustained injuries and six additional workers suffered fatal injuries. Citizens in the community and 31 federal, state, and local agencies came together to provide assistance during this crisis.

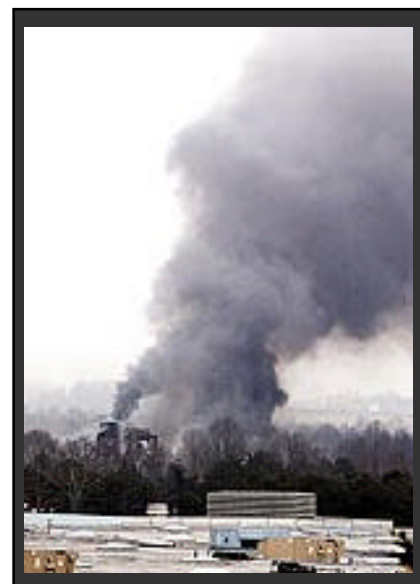
KESA, a self-insured group, through its Kentucky Workers' Compensation Fund, provided coverage for CTA Acoustics. KESA claims manager Kevin



as possible for the company, the employees and their families.

Fallahay began working with CTA offering on-site assistance immediately following the accident. The goal was to make the workers' compensation process as easy

KESA arranged for workers' compensation nurses to be assigned to all hospitals which were treating victims. One adjuster was assigned to each hospital teamed with a backup adjuster. A claims manager and a claims adjuster was made available on site. KESA also arranged to cover all living and travel expenses for family members of the injured.



CTA Acoustics is Corbin's third largest employer with 561 workers housed in its 300,000 square foot factory. It produces acoustical and thermal insulation products for passenger cars/trucks, ventilation systems, and appliances. CTA is currently operating out of a vacant building near the damaged plant.

KESA claims adjuster C. Michael McGee, Jr. quantified the compassion for the injured stating "The best thing KESA can do right now is relieve the worry in the families' minds about medical costs and lost work time. We can't change what happened, but we can help with the financial stress that follows a workplace accident."

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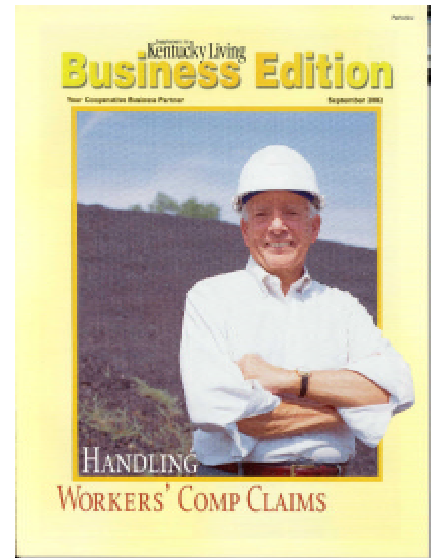
Department of Workers' Claims Update on HB 348

House Bill 348, best known for expanding benefits for miners with Black Lung, and providing better opportunities and incentives for retraining, did more than impact Kentucky's miners, it brought drastic changes to the Department of Workers' Claims (DWC) with respect to how a claim is filed and processed.

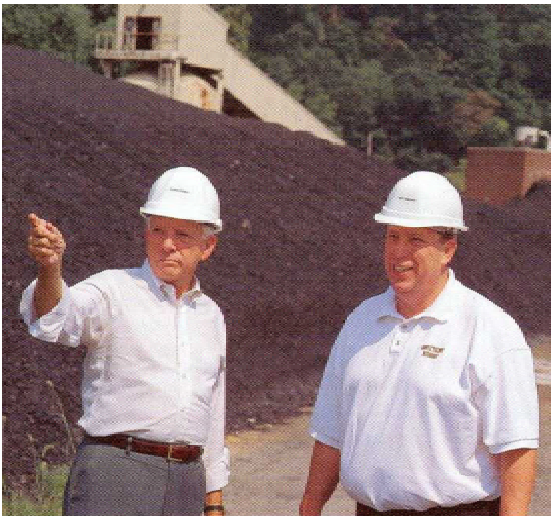
Prior to its enactment, much ground work was laid by the DWC to ensure availability and cooperation of key players, such as NIOSH certified B-Readers, UK and U of L medical staff/facilities, the Department of Vocational Rehabilitation, and Kentucky Cabinet for Workforce Development. As a result, new forms, notices, procedures, and posters were developed.

In the months since HB 348 was enacted, the Department of Workers' Claims has put theory into practice yielding an aggressive educational outreach campaign, expanded internal procedures for processing new Coal Workers' Pneumoconiosis (CWP) cases, implemented a program for claims submitted for reconsideration, and designed tools for monitoring administrative and program performance.

Initially, the Department's major focuses were on educating the public with information needed to fully understand the legislative changes, and providing immediate access to literature and forms associated with CWP filings and requests for reconsideration. Through the use of the Department's web site, radio broadcasts, public speaking



The Department of Workers' Claims utilized local media outlets, such as the September issue of Kentucky Living, to get information to the public.



Commissioner Larry Greathouse and Deputy Commissioner, Thomas Lewis toured coal fields and discussed retraining programs for miners.

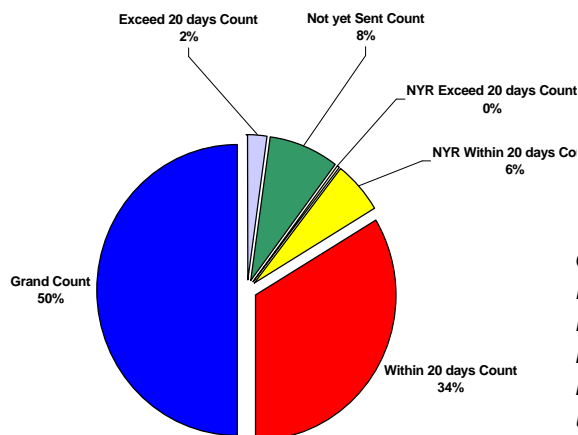
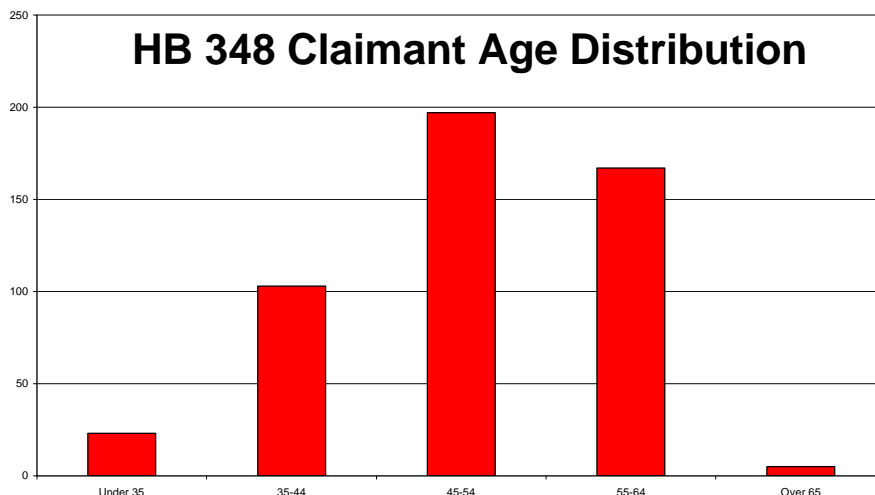
engagements, and written material, the goal of informing Kentucky's stakeholders has been accomplished.

As part of the Department's ongoing commitment to the effective enactment of HB 348, an educational outreach program was designed to bring the message to the people. Spearheaded by Deputy Commissioner Thomas "Tick" Lewis, accompanied by representatives from the United States Department of Labor and adult education representatives from the Kentucky Workforce Development Cabinet, the process of canvassing the Eastern and Western Kentucky coal fields began in July. To date, Mr. Lewis has conducted 21 meetings comprised of coal miners, attorneys, coal company representatives, legislators, injured workers, and widows, reaching more than 400 people. These town hall style meetings offer interested parties a unique opportunity to learn about state and federal Black Lung legislation, as well as other workers' compensation issues. As part of the agency's outreach efforts, audience members are provided postcards

Reinforcing the message being taken to the people, more than 520 posters have been distributed to coal employers across the state. The poster includes information about retraining benefits offered to miners and provides contact information for local retraining agencies. The RIB provision in HB 348 is one area of the new law that has not yet been utilized. Although it is still early in the implementation process, miners appear to be reluctant to explore the enhanced retraining program. This may be due in part to the fact that the average age for miners, which have filed CWP claims since July 15th, is 50.3.

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Under HB 348, new claims and requests for reconsideration must include an original x-ray, interpreted by a NIOSH certified B-Reader. Once received by the Department, if these readings are determined by the Commissioner to be in consensus, the case is assigned to an Administrative Law Judge and does not proceed through the "Panel Process". Departmental records indicate that only one request for reconsideration achieved consensus at the party level. If no consensus is reached at the party level, then the Department of Workers' Claims forwards the x-rays to a panel of three B-Readers for consecutive interpretations. Each B-Reader has 20 days to return the x-ray to the department along with their findings. On average this process is taking approximately 15 days to complete.



**Per the direction of the DWC, B-readers were instructed to hold readings until shipping issues could be resolved.*

Currently, 269 claims have been scheduled for panel review. Of those, 238 are new CWP claims and 31 are requests for reconsideration. One hundred and sixty-nine cases have completed the panel process, all of which were found to be in consensus. Although the specific finding required for determining benefits rests with the assigned Administrative Law Judge, a cursory review of the panel readings indicates 152 negative readings and seventeen (17) category 1 reports.

As of April 3, 2003, the Department of Workers' Claims has processed 495 requests for resolution of CWP claims. Of the 495 filings, 453 are new claims, and 42 are requests for reconsideration. The majority of CWP filings (418) have a last exposure date between 12/12/96 and 7/14/02. Twenty-five claims have been reported with a last exposure date prior to December 12, 1996 and 52 filings with exposure dates that occurred from July 15 to the present.

Quarterly



Statistics

QUARTERLY ACTIVITY

Lost Time First Reports of Injury	10,343	Dismissals	153
Claims Assigned	1,991	Re-openings (medical)	161
Pre-litigated Agreements	1,096	Re-openings (overruled)	21
Awards	315	Re-openings (sustained)	77
Agreements	715	Re-openings (motion docket)	128

CWP Claims Processing Activity

Claims Received and Temporarily Assigned	190
Consensus from Panel	115
Claims Received with No Consensus	189
Parties Consensus	5
Notice of Reconsideration	19

Distribution by Body Part (top ten)

Claims

Lower Back	383
Lungs	361
Multiple Body Parts	317
Including Systems	
Knee	106
Shoulder	99
Wrist	83
Disc	73
Ears	44
Soft Tissue Neck	37
Hand	34



FROIS

(First Report of Injury)

Lower Back	1,980
Multiple Body Parts	1,361
Including Systems	
Knee	815
Shoulder	651
Fingers	556
Wrist	464
Ankle	430
Hand	403
Abdomen	322
Foot	281



DISTRIBUTION BY INDUSTRY

	CLAIMS	FIRST REPORTS
Agriculture, Forestry, Fishing	16	130
Mining	525	601
Construction	120	792
Manufacturing	288	1,997
Transportation, Communication, Public Utilities	122	903
Wholesale Trade	26	311
Retail Trade	120	1,433
Finances, Insurance and Real Estate	10	138
Services	233	2,878
Public Administration	55	1,083
Unclassified	476	77

Fatalities

The Department of Workers' Claims in conjunction with the Labor Cabinet's Division of Occupational Safety and Health has devised a means for monitoring work related fatalities. The Department of Workers' Claims monitors a variety of news and information sources to ensure timely filing. It also strives to ascertain that benefits are delivered in a prompt manner to the families.



During the first quarter of 2003, there were twenty-six fatalities reported to DWC. By demographics, the deaths can be divided into three age groups: 20-29, 30-49, and 50-69. Workers in the 30-49 age category are responsible for 54% of the reported fatalities during this quarter, followed by the age group 50-69 with 35%. Workers in their 20's attributed to the fewest fatalities reporting three (3). The most common reason for loss of life was work-related motor vehicle accidents.

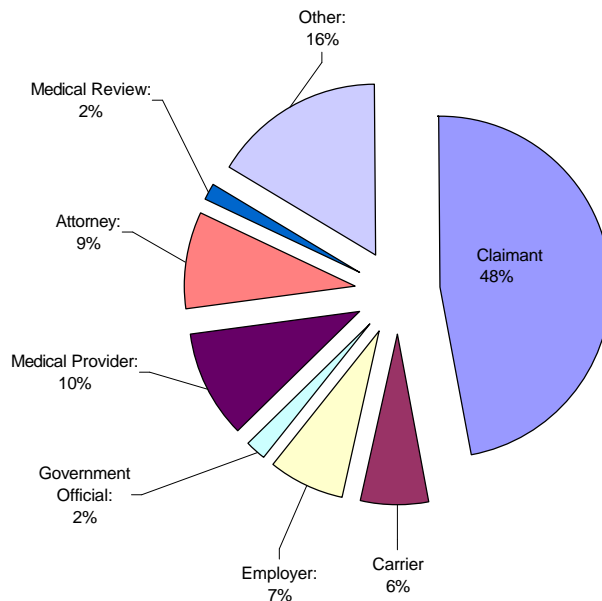
Division of Ombudsmen and Workers' Compensation Specialist Services

SOURCES OF REQUESTS FOR ASSISTANCE

Workers' Compensation Specialists and Ombudsmen received over 3,927 requests for assistance during the third quarter of the fiscal year.

The most common topics related to rights and procedures (2,391), questions relating to claim status (526), and requests for forms (419).

In addition to constituent services, 411 requests for mediation were handled by the Division of Ombudsmen and Workers' Compensation Specialists Services. Successful resolution of 213 mediated cases was achieved between January and March.



MEDICAL EVALUATIONS

During this quarter, there was a combined total of 57 medical evaluation reports received from the University of Kentucky and University of Louisville medical schools. Additionally, the Department's medical scheduling staff received 70 claims to be scheduled for evaluations at one of the university's medical schools.

Of the 70 claims to be scheduled, 31 involved hearing loss and 25 were injury related. There were six claims for fumes/chemicals, three claims for retraining incentive benefits (RIB), and one claim each for lead poison/liver disfunction, dermatitis, and asbestosis.

This division also processes all x-rays for CWP to "B" reader panels. The medical schedulers had combined x-ray shipment of 563 x-rays for this quarter, 207 x-rays were at the first "B" reader level; 187 for a second "B" reader interpretation; and 169 submitted for a third "B" reader interpretation.



Division of Claims Processing and Appeals

The **Claims Assignment Section** receives and processes all new applications for resolution of claims and re-openings from the Frankfort Motion Docket. The staff processed 1,527 new claims (180 were CWP claims), assigned 1,341 new claims and 238 re-openings to the judges for benefit review conferences.

The **Case Files Section** receives and processes motions to reopen, attorney fee motions, requests for widow's benefits, and miscellaneous motions in cases that have not been assigned to law judges, and prepares them for assignment to the Docket Section. The Case Files Section received 843 new motions and assigned a total of 891 motions.

The **Docket Section** prepares motions in cases that have not been assigned to a law judge and places them on the Frankfort Motion Docket for a ruling by the Chief Administrative Law Judge. Section staff assigned 778 motions to the Frankfort Dockets.

The **Open Records Section** responds to open records requests for information. Staff processed 4,138 written requests, 3,302 pre-employment requests, and 33 requests from the Department of Fish and Wildlife. Monies received for copy charges for this period totaled \$15,695.10.

The **Appeals Branch** processed 136 appeals during this period. The Workers' Compensation Board ordered final disposition on ten claims, but no full board opinions were rendered. Honorable Jonathan Stanley rendered 38 opinions, Honorable John A. Gardner, 35 opinions and Honorable Dwight T. Lovan, 34 opinions. 38 decisions were appealed to the Court of Appeals for which 37 records were prepared and sent to the court. The court rendered 31 opinions and four final dispositions. 45 claims went to the Supreme Court, which subsequently ordered 13 opinions and two final dispositions.

Administrative Law Judges

During this quarter, the Administrative Law Judges held 382 benefit review conferences. During these conferences, they presided over settlement negotiations, ruled on evidentiary disputes and identified contested issues. In addition, the Administrative Law Judges held 229 formal hearings and issued 137 formal decisions.



Office of General Counsel

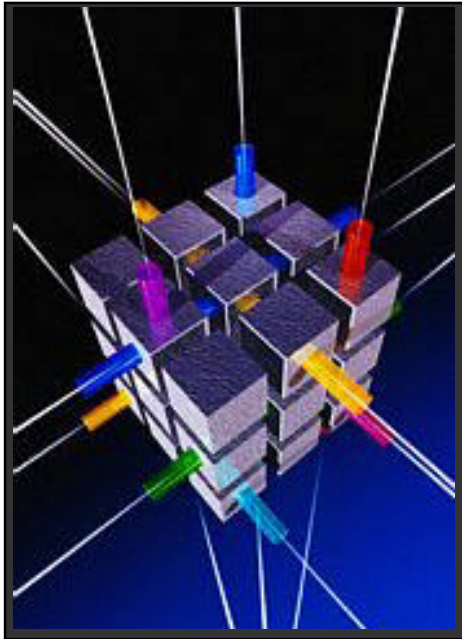
Between January and March, the Office of General Counsel received 71 citation cases, five unfair claims practice cases, and seven fraud cases with fines and penalties collected totaling \$52,732.15.

The Office was involved with continued activity relating to Green Coal/Green Coal Construction Escrow Account. There was continued litigation on Frontier and the New York Department of Insurance regarding Quaker Coal. Lodestar hearings on motions in bankruptcy court were also attended.

Division of Information and Research

The **Records Branch** of this Division is primarily responsible for collection, storage and retrieval of data and dissemination of information. It encompasses Coding, Scanning, Data Entry, Agreements, and Benchmarking.

In addition to the 15,830 electronically transmitted 1st reports, the **Coding Section** manually added 711 1st Reports to the Department's database system.



The **Scanning Section** processed 65,349 documents this period amounting to 439,168 total sheets into the optical image system.

The **Data Entry Section** received 26,529 pieces of mail (documents, pleadings, motions, responses, notices, etc.), 8,254 orders from the Administrative Law Judge, 483 opinions/awards, and 652 docket orders this phase of the quarter.

This reporting period, the **Agreements Section** received 1,248 Agreements on 1st reports, 137 agreements on claims, 283 attorney fees on agreements, and produced 4,370 statute letters.

The **Benchmarking Section** conducts specialized research by collecting, reviewing, and comparing data that is relevant to Workers' Compensation issues and the Department of Workers' Claims. Data collected from First Reports of Injuries, subsequent reports, and other databases provide for statistical reports and analysis compiled by the staff.

The Benchmarking section worked with the Governor's Office of Technology to coordinate reports incorporating AS400 language and query tools into the new SSIMBA system in preparation for the SSIMBA Application system going live.

The **Technical Support & Design and Development Section** responds to all technical, networking and programming needs. Technical Support responded to 361 helpdesk calls for the quarter. They upgraded 245 computers and 39 laptops to Office 2000 and SSIMBA Applications during the month of January. Additionally, the IT staff set up the agency's training room with 10 computers and assisted in the installation of an overhead mounted projector system. All training room computers were installed with the SSIMBA application and upgraded to Office 2000. Technical Support purchased contivity boxes for firewall protection for DWC Field Offices. Design and Development continues with programming and user acceptance testing of EDI and Proof of Coverage applications.



Division of Security and Compliance

Market Update

Self-insured employers of Kentucky continued to struggle with the hardening insurance market finding it increasingly difficult to obtain surety through the voluntary market in order to maintain self-insured status. As in prior periods, the DWC experienced an increasing number of requests for bond reductions and inquiries regarding surety alternatives. Surety bonds, once the mainstay for security purposes, are being increasingly eliminated from the product line of many carriers. Those carriers who continue to offer this product are requiring higher levels of collateral and greater financial stability from the employers seeking this coverage. Consequently, self-insured employers seeking increased surety have been forced to consider alternatives to surety bonds. Many self-insured employers have turned to letters of credit for the necessary security. Though it is of little consolation, Kentucky employers are not alone in the scramble to find adequate coverage. Employers throughout the nation are facing significant cost increases to cover similar risks from year to year.

As employers struggle with the impact of the economic downturn and the increasingly limited and costly alternatives available to meet workers' compensation obligations, the interest in self-insurance has increased. Although primarily the domain of the financially secure private corporation, the Department received several applications from Boards of Education in the Commonwealth requesting permission to self-insure its workers' compensation obligations.

These school systems, struggling with the economic realities of decreased funding and increased costs, are seeking relief through self-insurance hoping that close management of its losses and aggressive safety programs will create financial benefits that can be enjoyed by the school district rather than the carrier. The Department of Workers' Claims along with additional Commonwealth resources will monitor the program closely to determine whether this is in fact in the best interest of both injured workers and the Boards of Education.



Self Insurance

The Self-insurance Branch periodically audits each self-insured group fund, reviews the financial strength of the individual self-insured employers, and determines the surety requirements necessary to secure the benefits of the self-insured employer's workforce. Self-insurance auditors utilize independent resources including regional and national newspapers, business periodicals, Internet business sites and Dun & Bradstreet services to monitor the financial condition of self-insured employers. Auditors also focused on retrieving and reviewing loss data for those companies on the Department's Watch List as a result of their continued financial distress.

Routine Self-Insurance Branch Activities include the following:

- Review surety and premium loss data in preparation for the 2003 audit
- Complete surety calculations and surety revisions for current and former self-insured employers
- Analyze corporate financial statements
- Analyze, update, and review former self-insured coal and non-coal companies
- Prepare simulated premium calculations
- Prepare loss updates for former bankrupt self-insured companies
- Utilize A.M. best ratings in evaluation of participating insurance companies
- Prepare recertification dockets for self-insured employers

Self-Insurance Special Projects:

- Completed market conduct and financial audit for KESA, The Kentucky Workers' Compensation Fund
- Initiated self-insurance examination of Kentucky School Boards Self Insurance Trust (KSBIT)
- Initiated program to identify employers experiencing loss reserve irregularities
- Researched surety and reserve issues related to black lung claims relative to HB 348

Coverage

The Coverage Branch maintains proof of coverage information received from carriers and self-insured groups for each insured Kentucky employer. This information is submitted to the Coverage Branch through Electronic Data Interchange (EDI) and maintained in a master database eliminating the receipt of paper forms.

Prior to implementing the EDI proof of coverage program in 1998, the Coverage Branch was susceptible to the ebb and flow of documents submitted by the carriers or group self-insurance funds and usually operated with a backlog of several weeks' worth of coverage notices. A significant submission of several thousand records seriously hampered the Branch's ability to respond to the business needs of the Department. With the implementation of EDI and the subsequent improvements in its operation since 1998, the Branch is able to withstand the periodic deluge of data that is necessary to maintain adequate records. This is evidence of the efficiency that can be achieved when you combine the power of technology with the determination and commitment of knowledgeable employees.

Transactions received and processed from all vendors for this quarter totaled 57,018 with an overall acceptance rate of 85%. Kentucky Employers Mutual Insurance Company (KEMI), continues to maintain the greatest overall acceptance rate among the vendors at an impressive 91% for this quarter.

Enforcement

The Enforcement Branch compliance officers located throughout the Commonwealth investigate the status of Kentucky employer's insurance coverage through on-site visits in order to encourage voluntary timely compliance with workers' compensation requirements.

Quarterly Citation and Collection Statistics:

- ◆ Investigations totaled 2,441 with 306 employers found in violation of the Act
- ◆ Employer citations issued for noncompliance totaled 113
- ◆ The Department of Workers' Claims collected \$78,008 in penalties

Enforcement and Finance Administration staff recently established new procedures to help identify employers without workers' compensation coverage who are awarded state contracts and also to enforce compliance with workers' compensation regulations. The new process appears to be effective in accomplishing the target goal. Some modifications in the process may be required in the future.

Preparation and testing for the system redesign of the rejection notice database and citation legal tracking continued. A cooperative effort between the branches has helped to eliminate the creation of some duplicate records and to prevent loss of employer information.

Office of Administrative Services

The Office of Administrative Services continues to ensure that department expenditures comply with the Governor's Executive Order 2002-1334 and compliance with "fiscal policies" contained within House Bill 269 enacted by the 2003 General Assembly. Budget reduction efforts are on pace to meet targeted goals. Employees of the Office are continuing cross-training initiatives to ensure work flows are not interrupted.



This agency does not discriminate on the basis of race, color, national origin, religion, age or disability in employment or provision of services.

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